

CA-IR-109

Ref: HECO T-9, page 18; July 1, 2008 HECO Notice in Docket No. 04-0268 (PEACE CIS Agreements and Breach).

Please provide a complete copy of the March 2006 agreement with PEACE and all correspondence between HECO and PEACE regarding the contract, including all demand letters, breach notifications non-termination notices and all amendment(s) of the March 2006 contract

HECO Response:

Subject to the objections and clarifications below, HECO will provide the documents listed as Attachments 1 through 29 below. These attachments are confidential and voluminous and will be made available upon the issuance of a protective order. After the issuance of a protective order, please contact Mr. Dean Matsuura at 543-4622 to make arrangements to inspect the requested confidential information at HECO's Regulatory Affairs Division office, Suite 1301, Central Pacific Plaza, 220 South King Street, Honolulu, Hawaii.

The following is a listing of the attachments:

1. Attachment 1 - March 2006 Agreement with PEACE

Includes set of 19 DVDs of CIS Vendor Presentations (last exhibit)

2. Attachment 2 - Revised Contract

Amendment No. 1 To Implementation Services Agreement: HECO Customer Information System Between Hawaiian Electric Company, Inc. and Peace Software US, Inc.

Statement of Work

Attachment A – Project Change Request Form

Attachment B – Product Modifications

Attachment C – Interface Catalog

Attachment D – Glossary

Attachment E 01 – Application Configuration – Parameter Tables List - Sample

Attachment E 02 – Parameters Tables Values Specification-Sample

Attachment E 03 – Data Conversion Approach - Sample

Attachment E 04 – Conversion Data Mapping - Sample

Attachment E 05 – Parameters Tables Values Specification-Sample

Attachment E – Initial Performance Risk Assessment

Attachment E – Interface Requirement Specification E.06 HECO Template IRS v1.2

Attachment F – Project Governance & Quality Control

Attachment G – Incident Level Definitions & Actions

Attachment H – HECO Performance Standards

Attachment J – Remote Access Guidelines

Attachment K - CIS Standard Reports

Attachment L – RFP

Attachment M – RFP Functional Catalog

Attachment N – HECO Appendix 3.1 Implementation Methodology

Attachment N – Peace-HECO Appendix 3.2 Mod-Reg

Attachment N – Peace-HECO Appendix 4.2 Mod-Reg

Attachment N – Peace-HECO Appendix 4.3 Sys-Arch

Attachment N – Peace-HECO Appendix 4.4 Data-Dic

Attachment N – Peace-HECO Appendix 7.1 Sample-Resumes

Attachment N – Peace-HECO Appendix 9.1 STD packaged software agreement

Attachment N – Peace-HECO Cover Letter

Attachment N – Peace-HECO RFP main

Attachment P – Amendments to Proposal

Attachment Q – HECO Computing Standards

Attachment R – Project Schedule

Attachment S – See set of 19 DVDs in Attachment 1 (CIS Vendor Presentations)

Attachment T – Product Pack Contents

3. Attachment 3 – Change Requests/Change Orders

4. Attachments 4 through 29 - Correspondence between HECO and FDU

Attachment 4 – Memo – FDU to HECO on 3/28/2007 RE: Performance Bond Annual Form Bond No. 104898503

Attachment 5 – Memo - HECO to FDU on 4/27/2007 RE: Issues requiring immediate resolution

Attachment 6 – Memo – HECO to FDU on 04/27/2007 RE: Project Schedule

Attachment 7 – Memo – FDU to HECO on 05/01/2007 RE: Reply to Project Schedule Memo

Attachment 8 – Memo – HECO to FDU on 06/27/2007 RE: Project Schedule

Attachment 9 – Memo – HECO to FDU on 07/19/2007 RE: SCW Invoice

Attachment 10 – Memo – FCU to HECO on 7/31/2007 RE: SCW Invoice Reply

Attachment 11 – Memo - HECO to FDU on 08/10/2007 RE: Testing

Attachment 12 – Memo – HECO to FDU on 09/11/2007 RE: Peace Standard Reports – Compensation for Reduction in Reports

Attachment 13 – Memo – HECO to FDU on 09/11/2007 RE: Web Services – Commercial Terms

Attachment 14 – Memo – HECO to FDU on 10/02/2007 RE: First Data Invoices

Attachment 15 – Letter – HECO to FDU on 12/19/2007 RE: Peace Schedule for June 2, 2008 Go-Live

Attachment 16 – Letter – HECO to FDU on 01/22/2008 RE: Milestone Invoices

Attachment 17 – Letter – FDU to HECO on 02/07/2008 RE: Peace Software Inc

Attachment 18 – Letter – HECO to FDU on 02/29/2008 RE: Change Request After Go-Live memo of 2/6/2008

Attachment 19 – Letter – Peace to HECO on 5/14/08 RE: ISA dated March 10, 2006

Attachment 20 – Letter – Peace to HECO on 05/29/2008 RE: ISA dated March 10, 2006

Attachment 21 – Letter – HECO to Peace on 06/09/2008 RE: ISA dated March 10, 2006

Attachment 22 – Letter – Peace to HECO on 07/03/2008 RE: ISA dated March 10, 2006

Attachment 23– Letter – HECO to FDU on 07/23/2008 RE: Your Reply to letter of July 3, 2008

Attachment 24 – Letter – HECO to FDU on 07/24/2008 RE: Change Request 148

Attachment 25 – Letter – Peace to HECO on 08/13/2008 RE: CR 148

Attachment 26 – Letter – HECO to Peace on 08/18/2008 RE: ISA dated March 10, 2006

Attachment 27 – Letter – Peace to HECO on 08/19/2008 RE: Coordinating Committee Meeting

Attachment 28 – Letter – HECO to FDU on 08/20/2008 RE: Coordinating Committee Meeting

Attachment 29 – Letter – HECO to FDU on 9/18/2008 RE: Wishbone Deferral – FDU Proposed Schedule and Plan

HECO respectfully objects that the request is vague, unduly burdensome, onerous and overly broad to the extent that it requests “all correspondence between HECO and PEACE

regarding the contract.” To the extent that the request seeks “all correspondence between HECO and PEACE regarding the contract,” the request could be construed to mean every communication between HECO and Peace since 2006, because every aspect of HECO’s and Peace’s relationship since the contract was signed could be interpreted to relate to the contract. The rest of the IR specifically references “all demand letters, breach notifications, non-termination notices and all amendment(s) of the March 2006 contract.” Based on that focus, HECO is willing to provide the contract and all amendments thereto, as well as letters and memoranda between HECO and Peace concerning disputes regarding the party’s respective rights and obligations under the contract, and allegations between them relating to performance of the contract.

“Correspondence” could also be interpreted to include hard copy and electronic forms of communications (i.e., e-mails) between the parties. However, the number of e-mails between the parties relating to performance of the contract is voluminous likely numbering in the thousands, and would be very difficult and time-consuming to locate, to the extent they can be retrieved. Communications between the HECO and Peace project staffs are generated by multiple people on each side; there is no single point of contact with respect to which a search could be limited. To capture all e-mail relating to the contract, each project team member would have to search and print out every e-mail to or from a Peace project team member since March 2006. Each e-mail would then have to be reviewed and evaluated. If project staff had to print and review e-mails, the project work would be stalled or significantly impeded while that effort was undertaken, and that could negatively affect the project schedule. Moreover, any e-mail that was deleted by a HECO employee more than 3 weeks ago could not be recovered as HECO’s email

back-up would not be able to recover such deleted emails.. On this basis, locating and producing all e-mails would be unduly burdensome and time-consuming.

The responsive documents have been selected based on these objections.

In addition, on August 8, 2008, HECO and Peace executed a *Proposals Negotiation Non-Disclosure Agreement* (NDA) pursuant to which the parties agreed that they would explore options to potentially resolve disputes between them relating to payment disputes and other disputed matters relating to the contract, and that such negotiations would be kept strictly confidential and not disclosed to third parties. The NDA specifically sets forth that the parties agree that the discussions would be protected under Rule 408, Federal Rules of Evidence (inadmissibility of offers of compromise). HECO is not providing any correspondence that is the subject of this NDA.

The contract and all amendments are confidential because they contain sensitive pricing information, license terms and other proprietary information, as confirmed by section 8 of the contract (Confidentiality and Proprietary Rights). That section also provides that confidential information in and relating to the contract should not be disclosed directly or indirectly. The correspondence exchanged between the parties requested here both directly and indirectly discussed the contract provisions and obligations, including pricing in certain instances, and should be treated as confidential.

Attachments 1-29 contain confidential information and will be provided after a Protective Order is issued in this proceeding.

Attachments 1-29 are voluminous and available for inspection at HECO's Regulatory Affairs Division office, Suite 1301, Central Pacific Plaza, 220 South King Street, Honolulu, Hawaii. Please contact Dean Matsuura at 543-4622 to make arrangements to inspect the document. Electronic copies of the requested information will be provided.